

**VOLUNTARY CLEANUP CONTRACT
08-5758-NRP**

**IN THE MATTER OF
PROPERTY NORTH OF SAFETY-KLEEN SYSTEMS, INC. SITE
LEXINGTON COUNTY
and
THREE RIVERS LAND DEVELOPMENT GROUP, LLC**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and Three Rivers Land Development Group, LLC pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2002 and Supp. 2005), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C §§ 9601, et seq., and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (2002), with respect to the Property located on United States Highway 1 in Lexington, South Carolina. The Property is identified by Tax Map Serial Numbers 005596-01-013, 005596-01-014, 005596-01-015, and 005596-01-050. The Property includes approximately 30.75 acres and is bounded generally by Norfolk Southern Railway, followed by Safety-Kleen Systems, Inc. (Safety-Kleen) to the south. Properties located to the west include undeveloped woodlands and new construction for a subdivision. Properties located to the north include a single-family residence and to the south are undeveloped woodlands, and commercial and industrial development. In entering this Contract, the Department relies on the representations of the "Information and Certification" submitted on February 20, 2008, by Three Rivers Development Group, LLC, which is incorporated into this Contract and attached as Appendix A. A legal description of the Property is also included in Appendix A.

1. Unless otherwise expressly provided, terms used in this Contract shall have the meaning assigned to them in CERCLA, including any amendments, or in the regulations promulgated thereunder.

- A. “Three Rivers” shall mean Three Rivers Land Development Group, LLC.
- B. “Bona Fide Prospective Purchaser” shall have the same meaning as that in CERCLA, Section 222.
- C. “Contract” shall mean this Voluntary Cleanup Contract.
- D. “Department” shall mean the South Carolina Department of Health and Environmental Control or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- E. “Existing Contamination” shall mean any hazardous substances, pollutants or contaminants (as defined herein), present or existing on or under the Site as of the execution date of this Contract.
- F. “Hazardous Substance” means
 - a. Any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act [33 U.S.C. 1321(b)(2)(A)],
 - b. Any element, compound, mixture, solution, or substance designated pursuant to section 9602 of this title,
 - c. Any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.] has been suspended by Act of Congress),
 - d. Any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act [33 U.S.C. 1317(a)],
 - e. Any hazardous air pollutant listed under section 112 of the Clean Air Act [42

U.S.C. 7412], and,

- f. Any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act [15 U.S.C. 2606]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- G. “Non-Responsible Party” (or “NRP”) shall mean any party which is neither:
 - a. A responsible party at the time the voluntary cleanup contract is signed, including lenders, economic development agencies, fiduciaries, trustees, executors, administrators, custodians, subsequent holders of a security interest; nor
 - b. A parent, subsidiary of, or successor to a responsible party.
- H. “Oversight Costs” shall mean those costs, both direct and indirect, incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract and any future amendments thereto.
- I. “Pollutant or Contaminant” includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in organisms or their offspring; “contaminant” does not include

petroleum, including crude oil or any fraction of crude oil, which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of CERCLA, Section 101, 42 U.S.C. Section 9601, et seq. and does not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality or mixtures of natural gas and such synthetic gas.

- J. “Property” shall mean property as described in the Information and Certification attached as Appendix A, and that is subject to ownership, prospective ownership, or possessory or contractual interest of Three Rivers.
- K. “Response Action” shall mean any assessment, cleanup, inspection, or closure of a site as necessary to remedy actual or potential damage to public health, public welfare, or the environment.
- L. “Responsible Party” shall mean:
 - a. The owner and operator of a vessel, as defined in CERCLA Section 101 (28), or a facility;
 - b. Any person who, at the time of disposal of any hazardous substance, owned or operated any facility at which such hazardous substances were disposed of;
 - c. Any person who, by contract, settlement, or otherwise, arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by such a party or entity and containing such hazardous substances; and/or
 - d. Any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels, as defined

in CERCLA Section 101 (38), or sites selected by such person from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance.

M. “The Site” shall mean all areas where a contaminant has been released, deposited, stored, disposed of, placed, or otherwise comes to be located; “Site” does not include any consumer product in consumer use or any vessel, as defined in CERCLA Section 101 (28).

N. “Voluntary Cleanup” shall mean a response action taken under and in compliance with the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2002 and Supp. 2005).

O. “Work Plan” shall mean the plan for additional response actions to be conducted at the Property as described in Paragraph 5 of this Contract.

2. Based on the information known by and/or provided to the Department, the following findings are asserted for purposes of this Contract:

A. Owners and operators on the Property are as follows:

Parcel Number 005596-01-013

Raymond S. Caughman

To 1961

Elizabeth H. Caughman

1961 to 2000

Elizabeth H. Caughman & Raymond S. Caughman, Jr.

2000 to present

Since 2000, Elizabeth H. Caughman has periodically conveyed undivided fractional interests to Raymond S. Caughman, Jr. In 2000,

2001, and 2002, Elizabeth H. Caughman also conveyed to George R. Drafts and Frances H. Drafts each an undivided fractional interest. Within each of those years, George R. Drafts and Frances H. Drafts subsequently conveyed their undivided fractional interests to Raymond S. Caughman, Jr.

Parcel Number 005596-01-014

Hattie D. Corley	To 1951
Raymond S. Caughman	1951 to 2000
Raymond S. Caughman & Raymond S. Caughman, Jr.	2000 to present
Since 2000, Raymond S. Caughman has periodically conveyed undivided fractional interests to Raymond S. Caughman, Jr. In 2000, 2001, and 2002, Raymond S. Caughman also conveyed an undivided fractional interest to Hampton S. Caughman, who subsequently conveyed that interest to Raymond S. Caughman, Jr. within the same year.	

Parcel Number 005596-01-015

Hampton S. Caughman & Raymond S. Caughman	Prior to 1950 to 1971
Hampton S. Caughman	1971 to present

Parcel Number 005596-01-050

William B. Lindler	To 1950
Raymond S. Caughman	1950 to 1961
Elizabeth H. Caughman	1961 to present

- B. Palmetto Environmental Consulting, Inc. performed a Phase 1 Environmental Site Assessment on the Property, dated October 11, 2007.
- C. The Property consists of cleared fields and undeveloped woodlands. A horse barn exists in the northern portion of the Property. Historical data review finds that the Property has remained undeveloped agricultural fields and woodlands since at least 1943. Information submitted by electronic mail on March 11, 2008, from a Three Rivers' representative states that the undeveloped agricultural fields have remained in the approximately same areas as they are currently found.
- D. Norfolk Southern Railway is located immediately to the south of the Property with Safety-Kleen located immediately south of Norfolk Southern Railway. Safety-Kleen holds a Resource Conservation & Recovery Act (RCRA) Permit Number SCD 077 995 488 for storage of hazardous waste in containers and tanks, treatment of hazardous waste in one treatment tank, and identification and corrective action for all Solid Waste Management Units and Areas of Concern located at the facility. Safety-Kleen's operations have impacted the groundwater. The groundwater contamination primarily consists of volatile organic compounds (VOCs) and other hazardous substances with tetrachloroethene (PCE) and acetone as prevalent contaminants. Safety-Kleen has implemented groundwater remediation by injection of permanganate. Contaminants levels are reduced and monitoring is continuing; however, if the contaminants on the site do not reach the South Carolina Maximum

Contaminant Levels (MCLs), additional remedial efforts may be necessary per requirements of the RCRA permit.

- E. As a part of Safety-Kleen's assessment of its Site, Safety-Kleen installed three groundwater monitoring wells on the Property (TMW-9D, TMW-6D, and TMW-16D). These wells are sampled by Safety-Kleen on an approved periodic schedule. Both PCE and acetone have been found in groundwater samples collected on the Property. The last detection of PCE was in March 2005 with 10 parts per billion (ppb) detected in TMW-16D. Acetone has also been detected in two of the wells at levels ranging from 21 to 30 ppb. These wells also show concentrations of permanganate remaining from the remedial injections, so monitoring will continue until the MCLs are definitely reached. However, other actions, including, but not limited to, installation of wells, remedial actions, and sampling of wells may be required of Safety-Kleen on this Property per requirements of the RCRA permit.
 - F. Three Rivers intends to acquire the Property for redevelopment. Retail/commercial use is planned for approximately 5.5 acres in the northernmost portion of the Property. This proposed use is in keeping with the predominantly commercial/industrial use on US Highway 1 that borders the northern portion of the Property. A multi-family housing development is planned for approximately 15 acres of the southern portion of the Property. Again, this proposed use is in keeping with other development in the area, for a multi-family housing development is currently under construction to the west of the Property.
3. Three Rivers Land Development Group, LLC is a South Carolina limited liability corporation with its principal place of business located at 124 Cedar Road, Lexington, South Carolina. Three Rivers is a Non-Responsible Party at the Site; it is

not a parent, successor, or subsidiary of a Responsible Party at the Site; and it certifies that it and its members are eligible to be a Bona Fide Prospective Purchaser for the Property. Three Rivers and its members have had no previous involvement with the Site, including but not limited to any such activities that may have resulted in any Existing Contamination at the Site.

4. Three Rivers agrees to submit to the Department for review and written approval within thirty (30) days of the execution date of this Contract a Work Plan for the Property that is consistent with the technical intent of the National Contingency Plan. The Work Plan shall be implemented upon written approval from the Department. The Work Plan shall include the names, addresses, and telephone numbers of the consulting firm, the analytical laboratory certified by the Department, and Three Rivers' contact person for matters relating to this Contract. Three Rivers will notify the Department in writing of changes in the contractor or laboratory. The Department will review the Work Plan and will notify Three Rivers in writing of any deficiencies in the Work Plan, and Three Rivers shall respond in writing within thirty (30) days to the Department's comments. The Work Plan and all associated reports shall be prepared in accordance with industry standards and endorsed by a Professional Engineer (P.E.) and/or Professional Geologist (P.G.) duly-licensed in South Carolina and shall set forth methods and schedules for accomplishing the following tasks:

A. Remove any existing hazardous substances:

- a. In the event that drums, tanks, or other containers and items that are potential sources of hazardous substances are found on the Property at any time during assessment or development activities, all shall be characterized and removed from the Property for proper use or disposal in accordance with applicable regulations. Any drums, tanks, or other containers and items that are potential sources of hazardous substances found on the Property prior to assessment shall be characterized and removed for proper use or

disposal in accordance with applicable regulations. Records documenting characterization and disposal of these items shall be provided to the Department within 30 days of removal.

- b. Should any release of hazardous substances occur or be identified during removal of these items, Three Rivers shall immediately notify the Department and shall assess the impact of the release in accordance with a Department approved plan.

B. Assess the potential for soil contamination from agricultural uses:

- a. One surface soil sample (0-1 foot) and one subsurface soil sample (greater than 2 feet) shall be collected for approximately every two acres of undeveloped agricultural fields, with a minimum of three (3) sampling locations on the northern approximately five acre cleared tract, and a minimum of eight (8) sampling locations for the approximate fifteen acre cleared tract at the southern portion of the property. Surface soil samples shall be analyzed for Target Compound List (TLC) pesticides/herbicides and for Target Analyte List (TAL) (total) metal parameters. If TCL pesticides/herbicides or TAL metals are detected in the surficial soil samples at a concentration above screening criteria in sub-paragraph c. below, then the subsurface sample shall be analyzed for the parameters that exceeded those screening criteria.
- b. Collect a minimum of one (1) surface (0-1 foot) and one (1) subsurface soil sample (greater than 2 feet) to establish background for TAL metals. If TAL metals are detected in the surficial soil samples at a concentration above screening criteria in sub-paragraph c. below, then the subsurface sample shall be analyzed for the parameters that exceeded those screening criteria.
- c. Surface soil quality results shall be compared to the United States Environmental Protection Agency (EPA) Region IX Preliminary Remediation

Goals (PRGs) for residential and industrial exposure and EPA Region IX Soil Screening Levels (SSLs) with a DAF of 1 as a default or a site-specific value, if approved by the Department. Subsurface soil results shall be compared to SSLs with a DAF of 1 as a default or a site-specific value, if approved by the Department.

- d. Based on the results of initial assessment, additional assessment may be required to determine the extent of soil contamination.

C. Evaluate and control potential impacts to indoor air:

- a. In the event that the Department determines significant concentrations of volatile organic compounds are encountered in subsurface soil samples or groundwater samples, a minimum of two soil gas samples shall be collected from the proposed footprint of each building to be constructed in the area of potential vapor intrusion. The Department will use the modified Johnson and Ettinger Model to determine "Significant concentrations" and the model will be constrained towards predicting residential exposures consistent with the building construction likely to be employed on the site.
- b. Soil gas samples shall be analyzed for all site related constituents including volatile organic compounds by appropriate methods capable of detecting soil gas concentrations at screening levels indicative of a 10^{-6} risk for shallow gas samples (using an attenuation factor appropriate for the depth of the samples) as identified in Table 2c of EPA OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance), <http://www.epa.gov/correctiveaction/eos/vapor.htm>.
- c. An addendum to the Work Plan shall be submitted detailing the steps to be taken if the soil gas evaluation indicates contamination underlying the Property may impact indoor air quality.

- D. For any releases other than documented contamination associated with Safety-Kleen's RCRA permit, stop continuing releases on the Property and address contamination in a manner that is protective of human health and the environment, consistent with the intended future use of the Property:
- a. Based on the results of the assessment activities above, Three Rivers shall take reasonable steps, approved by the Department, to address the presence of hazardous substances:
 - i. In excess of appropriate human-health and ecological risk-based standards via all potential routes of exposure;
 - ii. In excess of appropriate standards for contaminant migration to groundwater; or
 - iii. In the event that presumptive evidence of a Non-Aqueous Phase Liquid (NAPL) is found in the subsurface under the Property. For purposes of this clause, presumptive evidence of NAPL shall be defined as finding solvent concentrations at, or greater than, 1% of its solubility limit in any groundwater sample.
 - b. For purposes of this clause, Three Rivers shall not be compelled to take action to stop continuing releases of hazardous substances migrating onto the Property from the Safety-Kleen site subject to RCRA Hazardous Waste Permit number SCD 077 995 488.
 - c. Any action to address a source of continuing release and other activities undertaken at the Property shall be consistent with all laws and permitting requirements of the Department, including, but not limited to, stormwater management and waste disposal regulations. Three Rivers shall identify and obtain the applicable permits before initiating any actions.
- E. With respect to the three groundwater monitoring wells currently on the Property, Three Rivers shall take measures to protect the integrity of these wells, including repairing or replacing such well if damaged by the operations of

Three Rivers, as well as provide access pursuant to paragraph fourteen (14) below. In the event that there are no further needs for any of these groundwater monitoring wells, and all mechanisms under the RCRA Permit number SCD 077 995 488 requiring Safety-Kleen to abandon them have been exhausted, Three Rivers shall abandon the monitoring well(s) in accordance with R.61-71 of the South Carolina Well Standards. Abandonment of the wells shall only be done upon written notification of the Department.

5. Three Rivers shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan that is consistent with Occupational Safety and Health Administration regulations. Three Rivers agrees that the Health and Safety plan is submitted for informational purposes only to the Department and the Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by Three Rivers.
6. Three Rivers shall inform the Department at least five (5) working days in advance of all field activities pursuant to this Contract and shall allow the Department and its authorized representatives, if so desired, to take duplicates of any samples collected by Three Rivers pursuant to this Contract.
7. Three Rivers shall preserve all drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site that may provide environmental information, evidence of a Potentially Responsible Party's involvement at the Site, or may lead to the discovery of other areas of contamination at the Site. Prior to destruction of any such items, Three Rivers shall notify the Department of their location and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense.

8. Within sixty (60) days of Work Plan approval and quarterly thereafter until a Certificate of Completion is issued, Three Rivers shall submit to the Department's project manager a written progress report that must include the following: (a) actions taken under this Contract during the previous reporting period; (b) actions scheduled to be taken in the next reporting period; (c) sampling, test results, and any other data, in summary form, generated during the previous reporting period, whether generated pursuant to this Contract or not; and (d) a description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.
9. All correspondence which may be required or permitted to be given by either party to the other hereunder shall be in writing and deemed sufficiently given if delivered by (i) regular U.S. mail, (ii) certified or registered mail, postage prepaid, return receipt requested, (iii) or nationally recognized overnight delivery service company or by hand delivery to the other party at the address shown below or at such place or to such agent as the parties may from time to time designate in writing. All correspondence, four (4) copies of all Work Plans and Reports, and one (1) copy of the Health and Safety Plan should be submitted to:

For the Department:

Gail Rawls Jeter

Bureau of Land and Waste Management

2600 Bull Street

Columbia, South Carolina 29201

For Three Rivers:

Mr. John Moore

Three Rivers Land Development Group, LLC

C/O Premier Land & Homes, Inc

124 Cedar Road
Lexington, South Carolina 29072

10. The Department and Three Rivers recognize that public participation is an important component of the Voluntary Cleanup Contract. Specific functions of the Department and Three Rivers are as follows:
 - a. The Department will seek public comment in accordance with S.C. Code Ann. § 44-56-750 (2002 and Supp. 2005) as outlined below:
 - i. Upon signature of this Contract by Three Rivers, the Department will provide notice for public participation by placing announcements describing the proposed Contract in newspaper(s) of general circulation within the affected community. A thirty-day period following the publication date of the announcement(s) will be provided for public comment and will precede the Department's scheduled date for execution of the Contract.
 - ii. The Department may publicize the proposed Contract by any other means including, but not limited to, electronic mail, news releases, community flyers, and door-to-door canvassing. Such actions may be done solely at the Department's discretion.
 - iii. A public informational meeting will be held if requested by twelve residents of South Carolina or an organization representing twelve or more residents of South Carolina. At the Department's discretion, public informational meetings may be held in the nearby communities for any other reason prior to the Department executing the contract. A public meeting may be requested at any time during the thirty-day comment period. In the event that a public meeting is deemed necessary, the Department will provide approximately two weeks advance notice of the meeting to the public and will extend the public comment period at least through the end of the day following the public meeting. The

Department will not execute the contract during any public comment period. In addition, the Department may, at its discretion, conduct public meetings to inform the community about the site at any time after the contract is executed until the certificate of completion is issued.

- b. Three Rivers agrees to enhance the public knowledge of the site response activities by:
 - i. Erecting a sign(s) at each entrance onto the Property from any public road, thoroughfare, navigable waterway, or other location routinely accessible by the public. The sign(s) shall be erected not later than one day after publication of any public announcement about the site placed by the Department in any newspaper of general circulation in the community.
 - ii. The sign will state "Voluntary Cleanup Project by Three Rivers Land Development Group, LLC under Voluntary Cleanup Contract 08- - NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the NRP contract and contact information, including telephone number and address, for a representative of Three Rivers. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432". All required lettering on the sign must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the site without intruding onto the Property.
 - iii. Within 10 days after erecting the sign, Three Rivers shall furnish to the Department photographs of the sign along with a site location drawing showing the sign location(s). Photograph(s) of the sign(s) shall be taken from no closer than the edge of the publicly-accessible road, waterway, etc. and should include an appropriately sized scale reference so that Department may determine the size of the sign and effectiveness of the

lettering. Three Rivers agrees to revise the sign if the Department determines the sign is not legible.

- iv. Three Rivers must maintain the sign(s) in legible conditions and visible locations throughout the duration of the contract period until a certificate of completion is issued on the site.
 - v. In the event that any sign must be removed to accommodate building or grading activities, Three Rivers shall replace the sign within two days. If the sign cannot be restored to the original location, Three Rivers may relocate it to another location meeting the conditions specified above.
 - c. All costs incurred by the Department for public participation (e.g., public notice(s), building and equipment rental(s) for public meetings, etc.) will be paid by Three Rivers.
11. The terms and conditions of this Contract apply to and shall inure to the benefit of each signatory and its Non-Responsible Party lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries but only to the extent that such parties have never been a Responsible Party at the Site and the Department. The Department shall be notified in writing upon transfer of ownership of the Property-
12. Nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, past or future, that the Department may have against any person, firm, or corporation not a signatory of this Contract or a signatory's NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries.
13. Nothing in this Contract is intended to limit the right of the Department to undertake future response actions at the Site or to seek to compel parties other than Three Rivers and its NRP lenders, parents, subsidiaries, and successors, including new

purchasers, lessees, heirs, and beneficiaries to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law.

14. The Department, its authorized officers, employees, representatives, Safety-Kleen, its authorized officers, employees, representatives, and all other persons performing response actions will not be denied access to the Property during normal business hours or at any time work under this Contract or work under Safety-Kleen's RCRA Permit Number SCD 077 995 488 is being performed or during any environmental emergency or imminent threat situation, as determined by the Department (or as allowed by applicable law). Three Rivers and subsequent owners of the Property shall ensure that a copy of this Contract is provided to any lessee successor or other transferee of the Property.
15. As provided for by S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (D) (2002), Three Rivers shall, on a quarterly basis, reimburse the Department for oversight costs of activities required under this Contract. Oversight costs include but are not limited to the direct and indirect costs of negotiating the terms of this Contract, reviewing Work Plans and reports, supervising corresponding work, and public participation. Payments will be due within thirty (30) days of receipt of the Department's invoice. Invoices shall be submitted to:

Mr. John Moore
Three Rivers Land Development Group, LLC
C/O Premier Land & Homes, Inc
124 Cedar Road
Lexington, South Carolina 29072

16. The Department and Three Rivers agree that the following are entitled to protection from contribution claims as provided by CERCLA § 113(f)(2), 42 U.S.C. §§ 9613(f)(2); S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (2002 and Supp. 2005): Three Rivers, its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries. A thirty (30) day comment period for contribution protection commences upon notice of this Contract to Responsible Parties at the Site as identified by the Department through a reasonable search effort.
17. The Department and Three Rivers agree that the following are entitled to protection from third-party claims for equitable relief or damages relating to "Existing Contamination" at the Site, as provided by S.C. Code Ann. § 44-56-750 (2002 and Supp. 2005): Three Rivers, its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries. This limitation on liability does not apply to any contamination, releases, and consequences caused by Three Rivers or its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries. Furthermore, this limitation of liability is effective on the date this contract is executed by the Department, but will be automatically withdrawn if this contract is lawfully terminated by either party.
18. If hazardous substances in excess of residential standards exist at the Property after the actions required under this Contract are completed, Three Rivers or subsequent owners working under this Contract shall enter into and record a restrictive covenant. The executed restrictive covenant shall be incorporated into this contract as an Appendix and shall be subject to the following provisions:
 - A. Upon the Department's approval of the items outlined therein, the restrictive covenant shall be signed by the Department and an authorized representative of Three Rivers or subsequent owners working under this Contract and witnessed, signed, and sealed by a notary public. The fully executed restrictive

covenant shall be filed with the Register of Deeds in Lexington County by Three Rivers or subsequent owner executing the instrument, and a copy of the restrictive covenant shall be provided to the Department showing that the document has been filed and showing the book and page number where it has been recorded by the county.

- B. With the approval of the Department, the restrictive covenant may be modified in the future if additional remedial activities are carried out that meet appropriate clean up standards at that time or circumstances change such that the restrictive covenant would no longer be applicable.
- C. The Department may require Three Rivers or subsequent owners to modify the restrictive covenant if a significant change in law or circumstances requiring remediation occur.
- D. Three Rivers subsequent owners may commission a survey to delineate a new legal parcel that is subject to the restrictive covenant.
- E. The restrictive covenant shall be recorded on the master deed of any planned residential community and shall be noted or referenced thereafter on each individual deed of property subdivided from the Property and subject to the restrictive covenant. The restrictive covenant shall reserve a right of entry and inspection for Three Rivers that may be transferred to another single individual or entity for purposes of coordinated compliance monitoring. Three Rivers or subsequent owners shall ensure that protective measures established by the restrictive covenants remain intact and functional on any subdivided property.
- F. Three Rivers or the single individual or entity responsible for coordinated compliance monitoring shall file an annual report with the Department by May 31st of each year detailing the current land uses and compliance with the restrictive covenants for as long as the restrictive covenant remains in effect on the affected property. The report may be submitted in a manner prescribed by the Department
- G. Three Rivers or subsequent owners working under this Contract shall create a

procedure to provide a single point of contact, e.g. property owners association, responsible for documenting current land use and compliance with the restrictive covenants regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.

19. Two (2) years after the execution date of this Contract, Three Rivers or subsequent owner of the Property shall provide the Department with the following information concerning the new operation at the Property: the number of jobs created; the amount of increase to the tax base; the amount of soil removed or remediated, if necessary; cost of all environmental work; and any other information that demonstrates that the activities performed pursuant to this Contract have been beneficial to the State, the community, and the Department.
20. Upon successful completion of the terms of this Contract as referenced in Paragraphs 4, 5 and 18 above, Three Rivers shall submit to the Department a written notice of completion. As a part of this notice, Three Rivers shall report the costs of all environmental work and the total amount invested in the site for property acquisition and capital improvements. Once the Department determines satisfactory completion of the Contract terms, the Department, as provided by CERCLA § 113(f)(2), 42 U.S.C. §§ 9613(f)(2); S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (2002 and Supp. 2005), will give Three Rivers a Certificate of Completion that provides a covenant not to sue Three Rivers, its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries for Existing Contamination, except for releases and consequences caused by Three Rivers or its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries. In consideration of the protections from the Department, Three Rivers and its lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries agree

not to assert any claims or causes of action against the Department arising out of activities undertaken at the Site or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Site, except for those claims or causes of action resulting from the Department's intentional or grossly negligent acts or omissions.

21. Three Rivers specifically denies any responsibility for response costs or damages resulting from Existing Contamination and does not, by signing this Contract, waive any rights that it may have to assert any claims in law or equity against any other person, company, or entity with respect to the Site. However, Three Rivers and its lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries are responsible and liable for any and all contamination, releases, and consequences they cause or contribute to the Site. Should environmental contamination neither previously-identified nor identified during the performance of response actions required under this Contract be discovered at the Site after the execution date of the Certificate of Completion, the burden is on Three Rivers or its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries to demonstrate to the Department's satisfaction that the contamination, releases, and consequences were not caused by Three Rivers or its NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries.
22. Three Rivers or subsequent owners of the Property and the Department each reserve the right to unilaterally terminate this Contract. Termination may be accomplished by giving a thirty (30) day advance written notice of the election to terminate this Contract to the other party. Should Three Rivers or subsequent owners of the Property elect to terminate, it must submit to the Department all data generated pursuant to this Contract, and certify to the Department's satisfaction that any environmental or physical hazard created by Three Rivers shall be stabilized

and/or mitigated such that the Property does not pose a hazard to human health or the environment that did not exist prior to any initial response action addressing contamination identified in this Contract.

23. The Department may terminate this Contract only for cause, which may include but is not limited to the following: (a) events or circumstances at the Property that are inconsistent with the terms and conditions of this Contract; (b) failure to complete the terms of this Contract or the Work Plan; (c) failure to submit timely payment for oversight costs as defined in Paragraph 15 above, (d) additional contamination or releases or consequences caused by Three Rivers or its lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries; (e) providing the Department with false or incomplete information or knowing failure to disclose material information; or (f) change in Three Rivers', its lenders', parents', subsidiaries', and successors', including new purchasers', lessees', heirs', and beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract; (g) failure by Three Rivers or subsequent Non-Responsible Party owner of the Property to obtain the applicable permits from the Department for any response actions or other activities undertaken at the Property.
24. Upon termination of the Contract, the covenant not to sue, contribution protection, and liability protection will be null and void. However, if the lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries provide false or incomplete information or if its business activities change such that they are inconsistent with the terms and conditions of this Contract, then the covenant not to sue, contribution protection, and liability protection shall become null and void only as to the lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries involved in the action giving rise to the termination without affecting the protections provided by

this Contract to the previous Non-Responsible Parties and other NRP lenders, parents, subsidiaries, and successors, including new purchasers, lessees, heirs, and beneficiaries.

25. The signatories below hereby represent that they are authorized to and do enter into this contract on behalf of their respective parties.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL**

BY: _____
Robert W. King, Jr., P.E.
Deputy Commissioner
Environmental Quality Control

DATE: _____
Columbia, South Carolina

Daphne G. Neel, Chief
Bureau of Land and Waste Management

DATE: _____

Approved by Office of General Counsel

DATE: _____

Three Rivers Land Development Group, LLC

BY: _____

DATE: _____

APPENDIX A